IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 740 OF 2005.

New Bandra Hill CHS. ..Appellant.

V/s.

M/s Ambit Corporation .. Respondent.

Shri V.A. Thorat,Senior Counsel with Vaibhav Sugdhare i/b Mehta and Girdharilal for the Appellant.

Shri Virag Tulzapurkar, Senior Counsel i/b DSK Legal for respondent Nos.1,2 &4.

Shri R.Y. Shirsikar for respondent No.5

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 17.10.2005.

P.C. :

. This appeal is directed against the order dated 14th July 2005 refusing to grant ad-interim relief in favour of the appellant. Hearing of the Notice of Motion on merits is still pending.

2. Heard rival parties. Looking to the consensus between the parties and considering the issues involved in the appeal, it would be in the fitness of thing to see that the Motion is finally heard with expeditious despatch . All the parties are agreeable to argue Notice of Motion pending before the learned Single Judge without seeking any adjournment.

3. Shri Thorat, learned Senior Counsel

appearing for the appellant submits that so far as portion marked ‘C’ on the plan shown as recreation ground is concerned, there is no construction as yet, as found by the learned Single Judge in para 5 of the impugned order. Shri Thorat, thus, submits that so far as portion marked ‘C’ is concerned, appropriate orders directing the parties to maintain status-quo be passed.

4. While re-acting to the above submission, Shri Tulzapurkar, learned Counsel appearing for respondent Nos. 1,2 and 4 submits that at least for about 8 to 10 weeks there is no possibility of the respondents proceeding with the construction on the portion marked C on the plan shown as recreation ground. He submits that as per Bombay Municipal Corporation Rules, construction can be done on this portion for specific purpose. It is not necessary for us to go into this issue at this state. Suffice it to take the statement of Shri Tulzapurkar appearing for the respondent Nos. 1,2 and 4 that for 8 to 10 weeks his clients shall not proceed with the construction on the said portion of the plot of land. This statement of Shri Tulzapurkar is taken on record without prejudice the rights of the parties to the appeal. It would be open for the rival parties to canvas their respective submissions with respect to portion marked "c".

5. We request the learned Single Judge to hear and dispose of the Notice of Motion without getting influenced by the impugned order on its own merits as expeditiously as possible preferably within 8 to 10 weeks from the date of receipt of copy of this order. All other rival contentions are kept open.

6. Appeal stands disposed of in terms of this order with no order as to costs.

. Needless to mention that in view of disposal of the appeal, Notice of Motion would not survive.

(J.P. DEVADHAR,J.) **(V.C. DAGA,J.)**